



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

**Requestor Name**

DANIEL GARCIA,DC

**Respondent Name**

NEW HAMPSHIRE INSURANCE CO

**MFDR Tracking Number**

M4-14-1631-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

FEBRUARY 6, 2014

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Dr. Beaty, who ordered by the commission to evaluate [Claimant] as a Designated Doctor on behalf of the Texas Department of Insurance (TDI) Division of Workers Compensation (DWC), is entitled to order the FCE to answer the questions asked of him per Rule 126.7(k). This would make the FCE Dr. Beaty requested exempt from the non-state ordered unit maximum reductions associated with the typical three FCE limitations."

**Amount in Dispute:** \$388.48

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The carrier is reviewing for proper payment per applicable fee guidelines."

**Response Submitted By:** Flahive, Ogden & Latson

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 5, 2013	CPT Code 97750-FC (16 units) Functional Capacity Evaluation (FCE)	\$388.48	\$388.48

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.204 and §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - W1-Workers compensation state fee schedule adjustment.

- 309-The charge for this procedure exceeds the fee schedule allowance.
- 600-Allowance based on maximum number of units allowed per fee schedule guidelines and/or service code description.
- B13-Previously paid. Payment for this claim/service may have been provided in a previous payment.
- 247-A payment or denial has already been recommended for this service.
- OA-The amount adjusted is due to bundling or unbundling of services.

## **Issues**

Is the requestor entitled to additional reimbursement for the FCE rendered on September 5, 2013?

## **Findings**

On September 5, 2014, the Division contacted the requestor's representative, Genicka Franklin, that verified services remain in dispute.

This dispute relates to services with reimbursement subject to the provisions of 28 Texas Administrative Code §134.204.

On the disputed date of service, the requestor billed CPT code 97750-FC.

The American Medical Association (AMA) Current Procedural Terminology (CPT) defines CPT code 97750 as "Physical performance test or measurement (eg, musculoskeletal, functional capacity), with written report, each 15 minutes."

The requestor appended modifier "FC" to code 97750. 28 Texas Administrative Code §134.204(n)(3) states "The following Division Modifiers shall be used by HCPs billing professional medical services for correct coding, reporting, billing, and reimbursement of the procedure codes. (3) FC, Functional Capacity-This modifier shall be added to CPT Code 97750 when a functional capacity evaluation is performed".

28 Texas Administrative Code §134.204(g) states "The following applies to Functional Capacity Evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the Division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using CPT Code 97750 with modifier "FC." FCEs shall be reimbursed in accordance with §134.203(c)(1) of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a Division ordered test; a maximum of two hours for an interim test; and, a maximum of three hours for the discharge test, unless it is the initial test. Documentation is required."

The requestor states in the position summary that the disputed FCE was requested by the Designated Doctor. A review of the submitted medical bill indicates that the requestor billed for sixteen units, which equals four hours; therefore, the requestor did not exceed the four hour limit set in 28 Texas Administrative Code §134.204(g) for Division ordered FCEs.

Per 28 Texas Administrative Code §134.204(g) to determine the reimbursement for FCEs the Division refers to 28 Texas Administrative Code §134.203(c)(1)(2).

Per 28 Texas Administrative Code §134.203(c)(1)(2), the following formula is used to calculate the Maximum Allowable Reimbursement (MAR): (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = MAR.

The 2013 DWC conversion factor for this service is 55.3.

The Medicare Conversion Factor is 34.023.

Review of Box 32 on the CMS-1500 finds that the services were rendered in zip code 79915 which is located in El Paso, Texas; therefore, the Medicare locality is "Rest of Texas."

The Medicare participating amount for CPT code 97750 is \$31.65.

Using the above formula, the MAR is \$51.44 per unit. The requestor billed for 16 units; therefore, \$51.44 X 16 = \$823.04. The respondent paid \$411.52. The difference between MAR and amount paid is \$411.52. The requestor is seeking \$388.48; this amount is recommended for additional reimbursement.

## **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$388.48.

## ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$388.48 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### Authorized Signature

_____	_____	04/17/2015
Signature	Medical Fee Dispute Resolution Officer	Date

## YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**